

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

IN RE:

Shawn Edward Donahue
Sandra LaRussa Donahue

Debtors.

Case No.:13-32765
Chapter 7

**AMENDED MOTION TO AVOID JUDICIAL LIENS OF VIRGINIA
COMMONWEALTH BANK, BANK OF LANCASTER, EVB BANK, AMERICAN
EXPRESS BANK FSBAND YELLOW BOOK SALES AND DISTRIBUTION COMPANY,
INC. ON REAL PROPERTY AND NOTICE OF MOTION AND HEARING**

COME NOW the debtors, by counsel, and moves pursuant to 11 U.S.C. Section 522(f) to avoid the judicial liens of Virginia Commonwealth Bank, Bank of Lancaster, EVB Bank, American Express Bank, FSB and Yellow Book Sales and Distribution Company, Inc. In support of this Motion, debtors state as follows:

1. This Court has jurisdiction over this proceeding under 28 U.S.C. Sections 1334 and 157. This is a core proceeding.
2. On May 17, 2013, the debtors filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Bankruptcy Code and obtained a chapter 7 discharge.
3. Debtors are the owners of real estate located at 37 East Church Street, Kilmarnock, Virginia 22482 (the Debtor's Residence).
4. At the time of the filing of their chapter 7 case in May of 2013, the debtors' bankruptcy petition listed the real estate as having a value of \$275,000.00.

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5. The Debtor's Residence is encumbered by a first mortgage owned by BAC Home Loan Services (the first mortgage), with an approximate payoff amount of \$335,899.00 as of the date of the filing of the chapter 7 bankruptcy petition.

6. **Yellow Book Sales and Distribution Company, Inc.**, obtained a pre-petition judgment against the debtors in the amount of \$8,723.51. An abstract of the judgment was recorded in the Clerk's Office of the Lancaster County Circuit Court as Instrument #110000298. Said recordation created a second lien on the debtor's residence.

7. **American Express Bank FSB** obtained a pre-petition judgment against the debtors in the amount of \$20,064.84, recorded as Instrument # 110000344, thereby creating a third lien of the debtors' residence.

8. **EVB Bank** obtained a pre-petition judgment against the debtors in the amount of \$284,154.70, recorded as Instrument #120000209, thereby creating a fourth lien on the debtors' residence.

9. **Bank of Lancaster** obtained a pre-petition judgment against the debtors in the amount of \$65,588.17, recorded as Instrument #120000390, thereby creating a fifth lien on the debtors' residence.

10. **Bank of Lancaster** obtained an additional pre-petition judgment against the debtors in the amount of \$129,457.62, recorded at Instrument # 120000391, thereby creating a sixth lien on debtors' residence.

11. **Virginia Commonwealth Bank** obtained a pre-petition judgment against the debtors in the amount of \$1,497,995.20, recorded at Instrument # 120000483, thereby creating a seventh lien on the debtors' residence.

12. Accordingly, because the value of debtors' residence as of the time that the

chapter 7 bankruptcy petition was filed was \$275,000.00, while the total amounts of the first mortgage equaled roughly \$335,899.00 at the time that the debtors filed for chapter 7 relief, the judicial liens of Virginia Commonwealth Bank, Bank of Lancaster, EVB Bank, American Express Bank and Yellow Book Sales and Distribution Company, Inc are completely avoidable under 11 U.S.C. Section 522(f).

WHEREFORE, Debtors respectfully request that the Court enter an Order avoiding in their entirety, the judicial liens of Virginia Commonwealth Bank, Bank of Lancaster, EVB Bank, American Express Bank and Yellow Book Sales and Distribution Company, Inc against the Debtors' Residence.

**SHAWN EDWARD DONAHUE and
SANDRA LARUSSA DONAHUE,**

By: /s/ Paul McCourt Curley
Counsel

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NOTICE OF MOTION AND HEARING

The Debtors, by counsel, have filed the foregoing motion with the court to avoid certain pre-petition judicial liens pursuant to 11 U.S.C. Section 522(f).

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, then on or before April 8, 2020, you or your attorney must:

- File with the court, at the address shown below, a written response pursuant to Local Bankruptcy Rule 9013-1(H) and Local Bankruptcy Rule 2004-1(B). You must mail or otherwise file your response early enough so the Court will **receive** it on or before the date stated above.

Clerk of the Court
United States Bankruptcy Court
701 East Broad Street, Suite 4000
Richmond, Virginia 23219

- You must also serve your written response on counsel for the Movant at the address shown below. You must serve the written response early enough so that such counsel will **receive** it on or before the date stated above.

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- Attend a hearing in the United States Bankruptcy Court for the Eastern District of Virginia, 701 East Broad Street, Room 5000, on **April 15, 2020 at 12:00 p.m.** **If no timely response has been filed opposing the relief requested, the court may grant relief without holding a hearing.**

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Date: March 13, 2020

/s/ Paul McCourt Curley
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CERTIFICATE OF SERVICE

I, Paul McCourt Curley, on this 13th day of March 2020, hereby certify that I served, by certified mail, postage prepaid, and electronic means, a copy of the foregoing upon all necessary parties as follows:

Sonabank, fka, EVB
RA: Kimberly Lipscomb
9606 Atlee Commons Drive
Ashland, VA 23005

American Express Centurion Bank, fka, American Express Bank
Attn: Robert Garinger, CEO/President
4315 South 2700 West
Salt Lake City, UT 84184

Virginia Commonwealth Bank
RA: John C. Hodges
678 Rappahannock Drive
P.O. Box 5
White Stone, VA 22578

Virginia Commonwealth Bank, fka, Bank of Lancaster
RA: John C. Hodges
678 Rappahannock Drive
P.O. Box 5
White Stone, VA 22578

HIBU, Inc., formerly known as,
Yellow Book Sales and Distribution Co., Inc.
RA: CT Corporation System
4701 Cox Road, Suite 285
Glen Allen, Virginia 23060-6808

/s/ Paul McCourt Curley